

10/728,943

Filing Date: August 10, 2001
Attorney Docket No. 78162-32C
Page 7

REMARKS**I. Amendments:**

No amendment is made. Claims 2, 5-23 and 36-42 remain in the instant application.

II. Rejection of Claims 2, 5-23 and 36-42 Under 35 U.S.C. § 102(e)

The Examiner rejects claims 2, 5-23 and 36-42 as being anticipated by Pardy et al. (US 6534648). Applicant disagrees.

As described at column 3 lines 27-49 of Pardy et al., Pardy's extract is obtained by centrifugation at 5000xg and chromatography using Sephadex G-25, which separates molecules in the size range of 0.1-5 KDa (see the attached Technical Specifications for Sephadex gel filtration medium from Amersham Biosciences).

Pardy states at column 3 lines 40-45:

The aqueous phases from the two extractions were combined, lyophilized, resuspended in pyrogen-free water and chromatographed on a 10 ml column of Sephadex G-25 (Sigma Chemical Company, St. Louis, Mo.) and equilibrated with 0.05 M ammonium acetate (pH 8.1) to remove phenol. [emphasis added]

Clearly, Pardy et al. used Sephadex G-25 as a desalting column to remove phenol and any material smaller than 5 KDa. Pardy's extract is essentially a crude extract free of material smaller than 5 KDa, which extract has not been fractionated by size.

By contrast, the two independent claims of the present application (claims 10 and 36) recite a particular size range of high molecular weight polysaccharide and polysaccharide complexes. Claim 10 is drawn to a composition consisting of polysaccharides and polysaccharide complexes of about 1 x 10⁵ Da to about 1 x 10⁷ Da. Claim 36 is drawn to

10/728,943
Filing Date: August 10, 2001
Attorney Docket No. 78162-32C
Page 8

a composition comprising polysaccharides and polysaccharide complexes of about 1 x 10⁵ Da to about 1 x 10⁷ Da in which these polysaccharides and polysaccharide complexes are present in the composition at a greater percentage than in a crude *Chlorella* extract.

Pardy's extract does not consist of polysaccharides and polysaccharide complexes of about 1×10^5 Da to about 1×10^7 Da. Pardy's extract also does not comprise polysaccharides and polysaccharide complexes of about 1×10^5 Da to about 1×10^7 Da where the polysaccharides and polysaccharide complexes are present in the composition at a greater percentage than in a crude *Chlorella* extract. Pardy's extract is in fact the crude extract. The compositions of the claims are distinct from those of the cited prior art.

Withdrawal of the rejection under 35 U.S.C. §102(c) in view of Pardy et al., is respectfully requested.

III. Concluding Remarks

In view of the above amendments and remarks, reconsideration and favorable action on all pending claims are respectfully requested. If any questions or issues remain, the Examiner is invited to contact the undersigned at the telephone number set forth below so that a prompt disposition of this application can be achieved.

Should the Examiner have any questions or comments regarding the pending application or this Amendment, the Examiner is requested to telephone the undersigned at 613-232-2486.

10/728,943

Filing Date: August 10, 2001

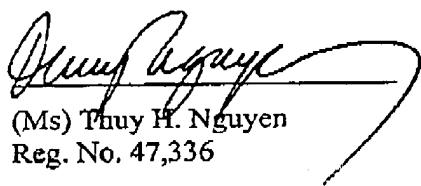
Attorney Docket No. 78162-32C

Page 9

If there are any fees due in connection with the filing of this Amendment, please charge the fees to our Deposit Account Number 19-2550. If a fee is required for an extension of time under 37 C.F.R. §1.136 not accounted for above, such an extension is requested and the fee should also be charged to our Deposit Account.

Respectfully submitted,

Date: January 14, 2005



(Ms) Thuy H. Nguyen
Reg. No. 47,336

SMART & BIGGAR
P.O. Box 2999, Station D
900 – 55 Metcalfe Street
Ottawa, Ontario
Canada K1P 5Y6
tel. (613) 232-2486
fax. (613) 232-8440